



# PROPOSED RULE MAKING

## CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON  
FILED

DATE: October 02, 2020

TIME: 4:15 PM

WSR 20-20-080

**Agency:** Office of Financial Management (OFM)

☒ **Original Notice**

☐ **Supplemental Notice to WSR** \_\_\_\_\_

☐ **Continuance of WSR** \_\_\_\_\_

☐ **Preproposal Statement of Inquiry was filed as WSR** \_\_\_\_\_ ; or

☐ **Expedited Rule Making--Proposed notice was filed as WSR** \_\_\_\_\_ ; or

☒ **Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**

☐ **Proposal is exempt under RCW** \_\_\_\_\_.

**Title of rule and other identifying information:** (describe subject)

WAC 357-26-035 What actions must an employer take to provide reasonable pregnancy accommodations?

WAC 357-26-040 When may an employer deny a reasonable pregnancy-related accommodation?

WAC 357-26-045 When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation what documentation may the employee be required to submit?

**Hearing location(s):**

Date:	Time:	Location: (be specific)	Comment:
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November 12, 2020	8:30 a.m.	Office of Financial Management Audio conference only Dial-in (888) 285-8919 Enter pin: 8101730 Code (if asked): 415	
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**Date of intended adoption:** November 19, 2020 (Note: This is **NOT** the **effective** date)

**Submit written comments to:**

Name: Caroline Kirk

Address: Office of Financial Management, PO Box 47500, Olympia, WA 98501

Email: caroline.kirk@ofm.wa.gov

Fax: 360-586-4694

Other:

By (date) November 5, 2020

**Assistance for persons with disabilities:**

Contact Office of Financial Management

Phone:

Fax:

TTY: 7-1-1 or 1-800-833-6384

Email:

Other:

By (date) November 5, 2020

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** Chapter 134, Laws of 2020 (House Bill 2266) was passed during the 2020 Legislative session with an effective date of June 11, 2020. This bill amends RCW 43.10.005 by adding language that an employer may not require an employee to provide written certification from a health care professional when the employee requests a reasonable accommodation for the expression of breast milk. The amendment to WAC 357-26-035 adds the reasons in which an employer may provide a reasonable pregnancy accommodation. The amendment to WAC 357-26-040 amends the reasons when an employer may deny a reasonable pregnancy-related accommodation. The amendment to WAC 357-26-045 amends for what reasons an employee may need to provide documentation for a requested reasonable pregnancy accommodation.

**Reasons supporting proposal:** To align Title 357 WAC with the changes made to RCW 43.10.005 effective June 11, 2020.

**Statutory authority for adoption:** Chapter 43.01 RCW

**Statute being implemented:** RCW 43.10.005

**Is rule necessary because of a:**

Federal Law?

☐ Yes ☒ No

Federal Court Decision?

☐ Yes ☒ No

State Court Decision?

☐ Yes ☒ No

If yes, CITATION:

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Name of proponent:** (person or organization)

☐ Private  
☐ Public  
☒ Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Caroline Kirk	128 10 <sup>th</sup> Ave, Olympia, WA 98501	360-407-4136
Implementation:	Caroline Kirk	128 10 <sup>th</sup> Ave, Olympia, WA 98501	360-407-4136
Enforcement:	Caroline Kirk	128 10 <sup>th</sup> Ave, Olympia, WA 98501	360-407-4136

**Is a school district fiscal impact statement required under RCW 28A.305.135?**

☐ Yes ☒ No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

**Is a cost-benefit analysis required under RCW 34.05.328?**

☐ Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

☒ No: Please explain: Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328(5)(b)(ii) for exemption.

**Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:**

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

☐ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

☐ This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

☐ This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

☒ This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

☒ RCW 34.05.310 (4)(b)  
(Internal government operations)

☐ RCW 34.05.310 (4)(e)  
(Dictated by statute)

☐ RCW 34.05.310 (4)(c)  
(Incorporation by reference)

☐ RCW 34.05.310 (4)(f)  
(Set or adjust fees)

☐ RCW 34.05.310 (4)(d)  
(Correct or clarify language)

☐ RCW 34.05.310 (4)(g)  
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

☐ This rule proposal, or portions of the proposal, is exempt under RCW \_\_\_\_.

Explanation of exemptions, if necessary:

**COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES**

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

☐ No Briefly summarize the agency's analysis showing how costs were calculated. \_\_\_\_\_

☐ Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:  
Address:  
Phone:  
Fax:  
TTY:  
Email:  
Other:

**Date:** October 2, 2020

**Name:** Roselyn Marcus

**Title:** Assistant Director of Legal and Legislative Affairs  
Office of Financial Management

**Signature:**

